

REMARKS

I. Status of the Claims

Claim 39 is pending in the application. Claim 39 is amended above. Claims 41-55 are presented in the amendments above. Upon entry of the above amendments, claims 39 and 41-55 will be pending in the application. No new matter has been added by these amendments.

II. Status of Petitions for Correction of Inventorship

Applicant has filed two petitions under 37 C.F.R. for correction of inventorship. The first petition was filed to add Dale Whipple as an inventor. The second petition was filed to remove Dale Whipple as an inventor, as Dale Whipple is not an inventor of the subject matter that was elected in response to the restriction requirement. No decision on either petition has been received.

Applicant respectfully requests the status of these petitions.

III. Replacement FIG. 2 is Submitted Herewith

FIG. 2 was objected to because it included numeral 38 which was not recited in the specification. Applicant traverses the objection in view of replacement FIG. 2 submitted herewith.

Attached to this paper is a Replacement sheet for FIG. 2. Numeral 38 has been removed from FIG. 2. Applicant respectfully requests withdrawal of the objection.

IV. Claim 39 Meets The Requirements of 35 U.S.C. § 112, Second Paragraph

Claim 39 was rejected under § 112, second paragraph as failing to provide sufficient antecedent basis for the phrase “the stapling device.” Claim 39 is amended above to render claim 39 more user-friendly and to clarify the full scope and content of claim 39. In particular, the terms “the stapling device” and “laparoscopically” have been removed from claim 39. By removing the terms “stapling device” and “laparoscopically,” claim 39 is now broader. In addition, because claim 39, as originally filed, is patentable over the single citation relied on by

the Examiner (see the reasons provided below), this amendment was made not for reasons of patentability.

Claim 39 now recites “placing a soft tissue fixation device vaginally through an insertion device adapted for inserting the soft tissue fixation device.” As amended, claim 39 meets the requirements of 35 U.S.C. § 112, second paragraph, and Applicant respectfully requests withdrawal of the rejection.

V. Claim 39 is Patentable over Carter

Claim 39 is rejected under § 102(e)/103(a) as being anticipated by Carter (US 6,044,847). Applicant respectfully traverses the rejection.

Claim 39 is patentable over Carter, because Carter fails to disclose, teach or suggest the subject matter defined by claim 39. Instead, Carter discloses a method of folding endopelvic fascia on itself (col. 7, lines 23-30). That is, Carter folds the same tissue on itself to shorten the length of the tissue. The probe used in the method of Carter fixes the folded tissue together to decrease the dimension of the folded tissue. See col. 2, lines 59-57.

Claim 39 differs from Carter in that it is directed to a method of surgical paravaginal repair that comprises placing a soft tissue fixation device vaginally through an insertion device adapted for inserting the soft tissue fixation device and approximating at least one of the superior lateral sulci and inferior lateral sulci to the lateral pelvic sidewall without exposing the lateral pelvic sidewall through a surgical incision in a vaginal wall. In the instant method, one or more of the superior lateral sulci and inferior lateral sulci are approximated to the lateral pelvic sidewall, an anatomical structure distinct and separate from the superior and inferior lateral sulci. Thus, claim 39 is directed to approximating a first tissue (either or both of the superior lateral sulci and inferior lateral sulci) to a second tissue (lateral pelvic sidewall). Thus, Carter’s method of folding tissue onto itself is insufficient to anticipate claim 39 or to render claim 39 obvious.

In addition, what is asserted by the Examiner (see numbered paragraph 7 of the Office Action) to be an insertion device in Carter is a probe for fixing the folded tissue. There is no disclosure, teaching or suggestion that Carter’s probe is adapted for inserting a soft tissue fixation device. Accordingly, Carter fails to disclose, teach or suggest use of an insertion device as recited in claim 39.

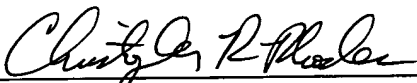
With reference to new claims 41-55, each of these claims is patentable over Carter, because each of claims 41-55 recites, either directly or through dependency, approximating or affixing a first tissue to a second tissue. As discussed above, Carter discloses folding a tissue onto itself, which is insufficient to anticipate claims 41-55 or render claims 41-55 obvious. Accordingly, each of claims 41-55 is patentable over Carter at least for the same reasons presented above.

For the reasons presented above, claim 39 and new claims 41-55 are each patentable over Carter.

VI. Conclusion

In view of the above amendments and remarks, all claims pending in the application are in condition for allowance. Applicant respectfully requests withdrawal of all objections and rejections and issuance of a Notice of Allowance.

Respectfully submitted,

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